

§ 96.52

time, has agreed that the amounts were not expended in accordance with law or the certifications. The hearing will be governed by Subpart F of this part and will be held in the State if required by statute.

(b) If a State refuses to repay amounts after a final decision that is not subject to further review in the Department, the amounts may be offset against payments to the State. If a statute requires an opportunity for a hearing before such an offset may be made, the hearing will be governed by Subpart F of this part and will be held in the State if required by statute.

(c) The Department will withhold funds from a State only if the Department has provided the State an opportunity for a hearing. The hearing will be governed by Subpart F of this part and will be held in the State if required by statute.

[47 FR 29486, July 6, 1982, as amended at 52 FR 37967, Oct. 13, 1987]

§ 96.52 Appeals.

(a) Decisions resulting from repayment hearings held pursuant to § 96.51(a) of this part may be appealed by either the State or the Department to the Grant Appeals Board.

(b) Decisions resulting from offset hearings held pursuant to § 96.51(b) of this part may not be appealed.

(c) Decisions resulting from withholding hearings held pursuant to § 96.51(c) of this part may be appealed to the Secretary by the State or the Department as follows:

(1) An application for appeal must be received by the Secretary no later than 60 days after the appealing party receives a copy of the presiding officer's decision. The application shall clearly identify the questions for which review is sought and shall explain fully the party's position with respect to those questions. A copy shall be furnished to the other party.

(2) The Secretary may permit the filing of opposing briefs, hold informal conferences, or take whatever other steps the Secretary finds appropriate to decide the appeal.

(3) The Secretary may refer an application for appeal to the Grant Appeals Board. Notwithstanding Part 16 of this title, in the event of such a referral,

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the Board shall issue a recommended decision that will not become final until affirmed, reversed, or modified by the Secretary.

(d) Any appeal to the Grant Appeals Board under this section shall be governed by Part 16 of this title except that the Board shall not hold a hearing. The Board shall accept any findings with respect to credibility of witnesses made by the presiding officer. The Board may otherwise review and supplement the record as provided for in Part 16 of this title and decide the issues raised.

§ 96.53 Length of withholding.

Under the low-income home energy assistance program and community services block grant, the Department may withhold funds until the Department finds that the reason for the withholding has been removed.

[64 FR 55857, Oct. 15, 1999]

Subpart F—Hearing Procedure

§ 96.60 Scope.

The procedures in this subpart apply when opportunity for a hearing is provided for by § 96.51 of this part.

§ 96.61 Initiation of hearing.

(a) A hearing is initiated by a notice of opportunity for hearing from the Department. The notice will:

(1) Be sent by mail, telegram, telex, personal delivery, or any other mode of written communication;

(2) Specify the facts and the action that are the subject of the opportunity for a hearing;

(3) State that the notice of opportunity for hearing and the hearing are governed by these rules; and

(4) State the time within which a hearing may be requested, and state the name, address, and telephone number of the Department employee to whom any request for hearing is to be addressed.

(b) A State offered an opportunity for a hearing has the amount of time specified in the notice, which may not be less than 10 days after receipt of the notice, within which to request a hearing. The request may be filed by mail, telegram, telex, personal delivery, or